

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **Nathalie VAST et al.**

Art Unit: **1785**

Application Number: **10/541,202**

Examiner: **Tamra L. Amakwe**

Filed: **May 10, 2006**

Confirmation Number: **7646**

For: **SHEET WITH AN ANTICOPYING, REDUCED OPACITY AREA**

Attorney Docket Number: **052737**

Customer Number: **38834**

PETITION UNDER 37 C.F.R. §1.181
FOR REVIEW OF RESTRICTION REQUIREMENT UNDER 37 C.F.R. § 1.144

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

October 1, 2010

Sir:

Applicants petition the Director under 37 C.F.R. §1.181 and 37 C.F.R. §1.144 to review and withdraw the requirement for restriction made final by the Examiner in the Office Action dated October 1, 2009. The restriction requirement was initially made in the Office Action dated June 23, 2009. Reconsideration of the restriction requirement was requested by Applicants in the response filed on July 20, 2009. Applicants petition for such withdrawal because the requisite criteria for a proper restriction requirement have not been met, and in addition, the criteria for rejoinder have been met, as these criteria are set forth in the Manual of Patent Examining Procedure (MPEP).

Claims 1-25 are pending in the present application. Claims 4-10 and 13-20 are withdrawn from consideration following the restriction requirement.

However, present claim 4 is formally dependent on elected claim 1, and claims 1 and 4 are specifically subcombination B^{sp} and combination AB^{sp}, this relationship being explicit by way of the claim dependency. Accordingly, restriction is not appropriate (see MPEP 806.05(c)(I)). The other withdrawn claims are dependent directly or indirectly on claim 4.

In particular, this application is a US national stage of an international (PCT) application, so “unity of invention” applies. Claim 4 dependent on claim 1 includes all the limitations of claim 1, so claim 1 and claim 4 have at least these “common special technical features” that define “unity of invention” under PCT Rule 13.1 (see MPEP 1893.03(d)). Therefore, restriction is improper and should be withdrawn.

Further, even if, arguendo, restriction had been properly made on June 23, 2009 (which is denied as set forth above), the Examiner must rejoin and examine claims that comply with “unity of invention.” Specifically, MPEP 821.04(a) states (emphasis added):

When *all* claims to the nonelected invention(s) depend from or otherwise require all the limitations of an allowable claim, applicant **must** be advised that claims drawn to the nonelected invention have been rejoined and the restriction requirement has been withdrawn.”

Thus, withdrawn claim 4 which is dependent on claim 1, as well as the other withdrawn claims which are dependent directly or indirectly on claim 4, should be rejoined and examined in this application.

Conclusion

In conclusion, maintaining the restriction requirement would be contrary to Patent Office rules and practice, and unfair to Applicant, as it would entail additional costs of a divisional application to have the withdrawn claims considered. It would also be inefficient for the Patent Office since examination of the divisional would substantially duplicate the already-performed examination in this application.

In view of the above, it is requested that the restriction requirement be withdrawn and all pending claims considered together in this application.

If this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of the response period. Please charge the fee for such extension and any other fees which may be required to Deposit Account No. 50-2866.

Respectfully submitted,
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

/nicolas seckel/

Nicolas E. Seckel
Attorney for Applicants
Registration No. 44,373
Telephone: (202) 822-1100
Facsimile: (202) 822-1111

NES/rep